

LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Senate Committee on Judiciary, Corrections, and Housing

Testimony of Senator Lena C Taylor

Senate Bill 403 – The LITE-House Act

Tuesday, January 22nd, 2008

Honorable Senators,

Thank you for hearing testimony today on Senate Bill 403—the LITE House Act. I am happy to join with the Assembly Speaker Pro Tempore Mark Gottlieb(R-Port Washington) on this important legislation that will define the property tax exemption for low-income housing.

Let me briefly take you through the history of this particular exemption and why we are here today.

In 2003, the Wisconsin Supreme Court decided *Columbus Park Housing Corporation v. City of Kenosha*, a case involving a dispute over whether the association was entitled to a property tax exemption under s.70.11(4), WI Stats. The courts agreed with the position of the City of Kenosha, that the “rent use” and “lessee identity” requirements do apply to residential property that is owned by non-profit organizations and leased to private individuals.

To respond to the issue, the Legislature enacted 2003 Act 195. That act exempted residential property owned by non-profit organizations from the *lessee identity requirement*, but not from the **rent use requirement**. Consequently, not-for-profit organizations that lease residential property must use all of the leasehold income for maintenance of the leased property and/or construction debt retirement. The act also mandated a Legislative Council committee be created to study the issue further.

In 2004, the Joint Legislative Council Study Committee on Tax Exemptions for Residential Property introduced 2005 AB 573, which was recommended for passage by the Urban and Local Affairs Committee. The bill was not enacted. As may be aware, it was the topic of much discussion in the legislature last session.

The past two sessions have brought us to this point. The LITE-House Act is a refinement of a provision of the omnibus budget motion approved by the Joint Finance Committee on a 16-0 vote. It was developed after extensive negotiations involving the Wisconsin Housing Preservation Corporation and local government interests. It represents an attempt to resolve this issue *only as it relates to one particular type of residential housing*, that being residential property leased to low-income individuals. The key provisions of this proposal are:

- Create a definition of “low-income housing” and defines “low-income housing” as any residential unit within a low-income housing project that is occupied by a low-income or a very

- low income person (as defined by federal law), or is vacant and only available to such persons, and
- Create a specific exemption from the property tax for "low-income housing" that is owned by churches and religious, educational and benevolent associations.
- Amend the rent use requirement that applies to low-income property owned by religious, educational, or benevolent associations, to provide that leasing the property does not make it taxable if all the rental income is used for any of the following expenditures for the project property:
 - Maintenance.
 - Capital replacements.
 - Insurance premiums.
 - Project management.
 - Debt retirement.
 - Monies reserved for project-related purposes.
 - General and administrative purposes.
 - Social services and other resident services provided at the project.
 - Utilities.
 - Financing costs.
 - Any other expenditure related to preserving and managing the project.
 - Any other similar project-related expenditure.
- Allow up to 10% of the rental income from a project to be used for an expenditure on the list above at any other low-income project in Wisconsin that is under common control with that project.
- Allow any amount of rental income to be used for debt service for any other low-income housing project under common control and under the same mortgage as the project.
- Amend the 10-acre limitation that applies to low-income property owned by religious, educational, or benevolent associations. Specifically:
 - Specifies that property owned by a church, religious or benevolent association and used for low-income housing is not subject to the 10-acre limitation.
 - Allows that up to 30 acres of property within a municipality owned by a church, religious or benevolent association used for low-income housing may be tax exempt, and specifies that no more than 10 contiguous acres may be exempt.
- Require the owner of a low-income project to file an annual statement and provide information to the assessor specifying which units were occupied by low-income or very low-income people, and allows the assessor to require a property owner to submit additional information to prove the property qualifies as tax exempt.

There are many very specific parts of this bill, and our colleague, Rep. Gottlieb will be more voiced than I in many of them. I will respectfully defer to him on many questions when he is called to testify.

I will say however that we will hear testimony from different points of view today. Let me clear on the intent of this legislation. This bill is offered as a proactive step to ensure the property tax exemption for people that are doing "God's work"—providing housing to those who need it the most. *What it is not*, is a punitive measure towards other types of housing.

Remember that during today's discussion. We are meeting in the context of this bill dealing with low-income housing. We are not here to debate or discuss the merits of tax exemptions across the board in Wisconsin. That is not the point of this bill.

In closing, the LITE-House Act is narrow but needed bill that will help ensure the continuation of low-income housing across Wisconsin. I urge you to support this bill and will be happy to answer questions that you may have.

Thank you.



MARK GOTTLIEB

Speaker Pro Tempore
Wisconsin State Assembly

Testimony of Rep. Mark Gottlieb
Senate Bill 403
Senate Committee on Judiciary, Corrections and Housing
January 22, 2008

In 2003, the Wisconsin Supreme Court decided *Columbus Park Housing Corporation v. City of Kenosha*. The case involved a dispute over whether the association was entitled to a property tax exemption under s.70.11(4), WI Stats. The courts agreed with the position of the City of Kenosha, that the “rent use” and “lessee identity” requirements do apply to residential property that is owned by non-profit organizations and leased to private individuals.

The Legislature enacted 2003 Act 195. That act exempted residential property owned by non-profit organizations from the lessee identity requirement, but not from the rent use requirement. Consequently, not-for-profit organizations that lease residential property must use all of the leasehold income for maintenance of the leased property and/or construction debt retirement. The act also mandated a Legislative Council committee be created to study the issue further.

In 2004, the Joint Legislative Council Study Committee on Tax Exemptions for Residential Property introduced 2005 AB 573, which was recommended for passage by the Assembly Urban and Local Affairs Committee. The bill was not enacted.

SB 403 attempts to resolve this issue only as it relates to one particular type of residential housing, that being residential property leased to low-income individuals. The key provisions of this proposal:

- Create a definition of “low-income housing” and defines “low-income housing” as any residential unit within a low-income housing project that is occupied by a low-income or a very low income person (as defined by federal law), or is vacant and only available to such persons, and
- Create a specific exemption from the property tax for “low-income housing” that is owned by churches and religious, educational and benevolent associations.
- Amend the rent use requirement that applies to low-income property owned by religious, educational, or benevolent associations, to provide that leasing the property does not make it taxable if all the rental income is used for any of the following expenditures for the project property:

STATE REPRESENTATIVE • 60TH DISTRICT

- Maintenance.
 - Capital replacements.
 - Insurance premiums.
 - Project management.
 - Debt retirement.
 - Monies reserved for project-related purposes.
 - General and administrative purposes.
 - Social services and other resident services provided at the project.
 - Utilities.
 - Financing costs.
 - Any other expenditure related to preserving and managing the project.
 - Any other similar project-related expenditure.
- Allow up to 10 percent of the rental income from a project to be used for an expenditure on the list above at any other low-income project in Wisconsin that is under common control with that project.
 - Allow any amount of rental income to be used for debt service for any other low-income housing project under common control and under the same mortgage as the project.
 - Amend the 10-acre limitation that applies to low-income property owned by religious, educational, or benevolent associations. Specifically:
 - Specifies that property owned by a church, religious or benevolent association and used for low-income housing is not subject to the 10-acre limitation.
 - Allows that up to 30 acres of property within a municipality owned by a church, religious or benevolent association used for low-income housing may be tax exempt, and specifies that no more than 10 contiguous acres may be exempt.
 - Require the owner of a low-income project to file an annual statement and provide information to the assessor specifying which units were occupied by low-income or very low-income people, and allows the assessor to require a property owner to submit additional information to prove the property qualifies as tax exempt.

This bill is a refinement of a provision of the omnibus budget motion approved by the Joint Finance Committee on a 16-0 vote. It was developed after extensive negotiations involving the Wisconsin Housing Preservation Corporation and local government interests.

I respectfully ask that the members of this committee support Senate Bill 403 without amendments that would broaden the scope of the property tax exemption provided in the bill. Thank you for the opportunity to testify before you today.

Wisconsin Association of Homes and Services for the Aging, Inc.

204 South Hamilton Street • Madison, Wisconsin 53703 • 608-255-7060 • FAX 608-255-7064

January 22, 2008

To: Senator Lena Taylor, Chair
Members, Senate Judiciary, Corrections and Housing Committee

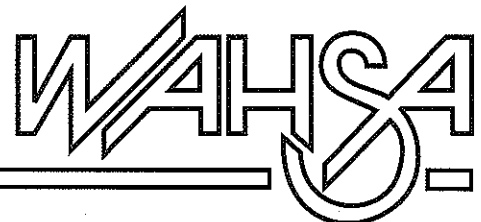
From: John Sauer, Executive Director

Subject: 2007 Senate Bill 403

The Wisconsin Association of Homes and Services for the Aging (WAHSA) is a statewide membership organization of not-for-profit corporations principally serving the elderly and persons with a disability. Membership in WAHSA is comprised of 187 religious, fraternal, private and governmental organizations which own, operate and/or sponsor 196 nursing homes, 144 of which are operated by private, not-for-profit organizations, 45 of which are county-operated facilities, and 7 of which are municipally-operated; 20 facilities for the developmentally disabled (FDD); 81 community-based residential facilities (CBRF); 59 residential care apartment complexes (RCAC); 14 HUD Section 202 Supportive Housing for the Elderly apartment complexes; 113 apartment complexes for independent seniors; and over 300 community service programs ranging from Alzheimer's support, child and adult day care, home care and hospice to Meals on Wheels. WAHSA members employ over 38,000 individuals who provide compassionate care and service to over 48,000 elderly and persons with a disability.

My name is John Sauer. I am the executive director of WAHSA and also served on the Legislative Council Special Committee on Tax Exemptions for Residential Property, which was created to respond to the concerns raised by the 2003 *Columbus Park* Supreme Court decision (*Columbus Park Housing Corporation v. City of Kenosha*). As a member of the special committee, I voted in support of the continued exemption from property taxes for low-income housing providers and my members and I continue to adhere to that position today.

But I also voted in support of exempting from property taxes the other residential housing providers who were impacted by the *Columbus Park* decision: not-for-profit nursing homes, community-based residential facilities, adult family homes, residential care apartment complexes, domestic abuse shelters, shelters for the homeless, transitional housing facilities, residential facilities for the treatment and housing of AODA clients, residential housing for persons with permanent disabilities, and senior housing apartments affiliated with a nursing home, a CBRF and/or a RCAC. In the words of Chairperson Taylor, which I strongly support, they, too, are "doing God's work."



WAHSA members do not oppose SB 403; however, they would prefer the comprehensive approach to the residential housing property tax exemption issue taken in 2005 Senate Bill 570 and in similar legislation Representative Leah Vukmir is about to introduce. Because one thing is quite clear: **The passage of SB 403 will not solve the *Columbus Park* problem.**

We believe SB 403 is before us today because low-income housing providers are experiencing the same dilemma as some of our long-term care providers: A strategy being adopted by some local assessors to avoid the Legislature by assessing property taxes against certain residential housing providers and letting the courts decide the legality of those decisions. They failed in recent attempts to convince the Legislature to revise the property tax exemption statutes so they've decided to assess property taxes based on their own interpretations of "benevolence" or the statutory "rent use" requirement (which permits the owners of tax-exempt property to use the leasehold income generated by that property only for maintenance and/or construction debt retirement) and watch to see if those property owners are willing to pay the property tax as a condition of seeking a court ruling on the validity of assessing those taxes. And they've had some success in bypassing the Legislature and going to court: a recent ruling in Dane County Circuit Court supported the City of Madison's assessment of property taxes on a Madison not-for-profit senior housing complex. In Wauwatosa, the city assessor recently assessed property taxes on the senior housing components of three WAHSA long-term care campuses in that city. However, rather than forcing the three organizations to adhere to the statutory dictate that the taxes must be paid before a court challenge can be pursued, the city and the three organizations tentatively have agreed to seek a declaratory judgment on the legality of assessing property taxes in these three instances.

The problem with this approach is two-fold: the prospect of having as many interpretations of what warrants a property tax exemption for residential housing as there are circuit courts willing to address the issue and the uncertainty which hangs over the heads of the residential housing providers and those they serve as to whether they will remain tax-exempt. SB 403 will solve that dilemma for low-income housing providers but for the 85-year old widow living at Luther Manor, Cedar Community, Morrow Memorial Home, Clement Manor, St. Camillus or any other senior housing complex whose tax-exempt status may be challenged, that uncertainty equates to the fear of being forced out of their "home." That fear factor was palpable in Wauwatosa, despite assurances that evictions for inability to pay are prohibited under IRS Revenue Ruling 72-124 for s. 501(c)(3) senior housing facilities.

The "take us to court" strategy also could impact funding of the Medicaid program and nursing home access. Many long-term care organizations use some of the leasehold income they generate from their senior housing and/or assisted living residents to subsidize part of the Medicaid losses their campus nursing home is experiencing. In 2006, the average nursing home in Wisconsin was losing \$29.06 per day for each Medicaid resident they served, or approximately \$232 million in the aggregate statewide. That figure assuredly will increase in 2007 since the 2007-09 state budget provided nursing homes with no Medicaid rate increase in 2007-08. Some local assessors are beginning to scrutinize this use of leasehold income; if this cross-subsidization is determined to be in violation of the "rent use" provision of the statutes, either additional Medicaid funding will be needed to offset those lost nursing home subsidies or some nursing homes may be forced to close.

WAHSA members understand and share the concerns of the low-income providers who seek the passage of SB 403. Once again, however, the passage of this bill will not address the concerns and the uncertainty of the residential housing providers who are not benefited by the provisions of SB 403. *We respectfully ask the Legislature to enact legislation that more comprehensively addresses the Columbus Park issues and ensures the continued property tax exemption for not-for-profit housing providers.*

Thank you for the opportunity to testify on SB 403.

Don O'Connell

DATE: January 22, 2008
TO: Members of the Wisconsin Legislature
FROM: Wisconsin Housing Preservation Corporation (WHPC)
RE: Senate Bill 403

I. Executive Summary:

- Senate Bill 403 (SB 403) is intended to clarify and protect the tax-exempt status, which has come under attack since the Columbus Park Decision of 2003, of those non-profit owned properties that meet the federal definition of low & very-low income housing, which are providing homes for Wisconsin's neediest residents. For example, the Wisconsin Housing Preservation Corp (WHPC), the State's largest low & very-low income non-profit housing provider owns approximately 4,900 units in the State which house over 9,000 elderly, handicapped and family residents whose average income does not exceed \$10,000 annually.
- Of key importance, under the provisions of SB 403, **existing law relating to property tax exemption for the vast majority of non-profits is not changing.** If a project is exempt now, it will remain exempt under the statute subject to its terms and definitions including those regarding "rent-use". SB 403 adds a federal definition of low & very-low income housing owned by non-profits; and for those non-profits that have projects which qualify under the low and very low income definition there is a listing of allowable uses of leasehold income (i.e., "rent-use"). **For those non-profits that do not qualify under this low & very-low income definition, they are neither better off nor worse off under SB 403.**
- While there was often disagreement in the legislative study committee that convened subsequent to the Columbus Park Decision of 2003, as to whom and to what extent property tax exemption should apply, there was little disagreement with respect to the finite segment of existing federally assisted properties that house the low & very-low income residents of Wisconsin. Without the clarification and assurance that non-profit housing providers like WHPC will be able to secure and maintain property tax exemption for such properties, they will not be able to acquire, preserve, or maintain these properties. The failure to achieve such clarification and assurance will eventually lead to catastrophic consequences for the low & very-low income residents of Wisconsin, and to the communities within which they reside.
- The economic viability of the majority of the existing federally created low & very-low income projects, which are rent and income restricted, is very much dependent on their property tax exempt status. Without property tax relief, many of these existing properties would fail, ultimately losing their federal subsidy with the subsequent burden of dealing with the ensuing financial issues and housing problems of the residents falling on the municipalities. In the case of WHPC, where they have been able to pay for municipal services provided to the properties, they have done so. For example, in over 95% of the cases where WHPC has been granted tax exempt status, WHPC has been willing to negotiate the payment of a PILOT (Payment in Lieu of Taxes) with the host community.

- WHPC is a Wisconsin 501(c)(3) non-profit corporation originally created as a trust by the Wisconsin Housing and Economic Development Authority ("WHEDA") as a statewide housing entity with the capacity to preserve and maintain, in as many cases as possible, the existing low and very-low income properties that were created through federal programs. WHPC's Board of Directors is comprised of nine (9) individuals who are appointed by the Governor of the State of Wisconsin.
- WHPC's housing portfolio, as of December 31, 2007, is comprised of 88 of these projects, consisting of 138 properties in 90 Wisconsin communities and 47 of Wisconsin's 72 Counties. With the average household annual income of approximately \$10,000, WHPC is providing homes for Wisconsin residents who have no other realistic housing alternatives. All of these projects were existing low & very-low income "at-risk" properties when acquired by WHPC.

II. Summary of Statutory Changes:

SB 403's changes to Section 70.11 of the Wisconsin Statutes will clarify property tax exempt status with respect to low & very-low income housing. In the past, providers like WHPC have been routinely granted property tax exempt status by the communities in which it owns projects. However, during the last few years it has become more common for communities to challenge this exempt status based on arguably ambiguous statutory language, amplified by the Columbus Park Decision in 2003 and subsequent legislative efforts to address the problem. To resolve these issues, SB 403 will accomplish the following:

- First and most importantly: The existing statute for the majority of non-profits regarding property tax exemption is not changing. If a project is exempt now, it will remain exempt under the statute subject to its terms and definitions including those regarding "rent-use". What the bill provides is the federal definition of low & very-low income housing owned by non-profits; and for those non-profits that have projects which qualify under the low and very low income definition, there is a listing of allowable uses of leasehold income (i.e., "rent-use"). For those non-profits that do not qualify under this low & very-low income definition, they are neither better off nor worse off under these changes.
- The statute is therefore clarified to provide that the limitations for the use of leasehold income for low & very low income housing as defined are further enumerated in these minor revisions to the statute. The present statute provides that all leasehold income must be used for maintenance of the leased property or construction debt retirement. This provision would remain in place for those non-profit residential properties that do not meet the definition of low & very-low income housing.
- The statute is further clarified to make certain that non-profit organizations like WHPC, as providers of low & very-low income housing, are benevolent organizations entitled to property tax exempt status; and,
- The bill provides that any non-profit benevolent organization owning and operating low & very-low income residential housing shall not be subject to the 10-acre limitation but would be subject to a 30 acre limitation (i.e., the total acreage of tax exempt real estate cannot exceed 30 acres in any community, with no more than 10 acres contiguous). The existing limitation is 10 acres which is problematical in larger communities such as Madison and Milwaukee where as few as 2 or 3 projects can exceed the 10 acre limitation.

SB 403 will protect the tax-exempt status of those non-profit owned properties that meet the federal definition of low & very-low income housing, which are providing homes for Wisconsin's neediest residents.

III. Financial Significance of the Property Tax Exemption on WHPC:

With respect to the vast majority of the existing federal portfolio in the State, as well as that of WHPC's current projects, and those existing projects which will be acquired in the future, gross rental income is effectively capped by the (i) Department of Housing & Urban Development (HUD) and Department of Agriculture Rural Development (RD) limitations on increasing rent subsidies, and (ii) the inability of the impoverished residents to pay any more for rent.

As a result, the ability of WHPC to acquire, preserve and maintain this important and vital stock of existing low & very-low income housing for the State of Wisconsin is, in many instances, dependent on the right of WHPC to not pay property taxes, thus reducing the ongoing expenses of ownership. The costs of operating these projects is often considerably higher than conventional properties due to a variety of reasons not the least of which are the increasing costs to address needs of the residents themselves and the escalating administrative expenses related to the increasing compliance mandates imposed by both federal and state agencies.

Without the financial resources that property tax exemption provides to help these properties remain viable, many of them would fail, thereby losing millions of dollars in federal subsidies, with that ultimate burden of support falling on the municipalities in which the residents reside.

In those cases where a project is financially capable of paying some amount towards the community's property tax assessment, WHPC has volunteered to enter into a PILOT agreement (Payment in Lieu of Taxes) with the community providing for the payment of a fair share for the services provided by that community to the WHPC apartment project (i.e., fire and police service, snow removal, etc.). To date, WHPC has entered into PILOT agreements in ninety-five (95%) of its projects that have been granted property tax exempt status.

IV. History & Purpose of Wisconsin Housing Preservation Corporation

- Wisconsin Housing Preservation Corp, ("WHPC") is a Wisconsin nonprofit corporation under Section 501 (c)(3) of the Internal Revenue Code. The predecessor to WHPC was the Wisconsin Housing Preservation Trust which was formed by WHEDA in 1994 with the mandate: to preserve the existing federally created housing across the State of Wisconsin which houses Wisconsin's poorest residents; and, to protect the millions of dollars in federal subsidies that come into the State for those purposes. WHPC's Board of Directors is comprised of nine (9) individuals who are appointed through a cooperative process between the board of the Wisconsin Housing and Economic Development Authority ("WHEDA") and the WHPC board with the final selections to be made by the Governor of the State of Wisconsin.
- The mission of WHPC (as well as its predecessor, the Wisconsin Housing Preservation Trust) is to purchase, renovate and preserve the aging federal (low & very-low income) housing portfolio in the State of Wisconsin. Without the efforts of WHPC, the availability of quality,

affordable housing to the neediest of the needy in the State of Wisconsin will continue to be put in serious jeopardy due to diminishing resources because of the following primary factors:

- Federal programs supporting low & very-low income housing are being eliminated or cutback;
- Low & very-low income housing in certain areas of Wisconsin are no longer financially viable, physically deteriorating, or being converted to market-rate housing;
- Owners of low & very-low income housing who developed the projects in the 1970's and early 1980's are unwilling/unable to dedicate the resources necessary to properly maintain and preserve these properties.

V. Overview of the WHPC Portfolio

The WHPC housing portfolio, as of December 31, 2007 consists of 88 projects with 138 properties in 90 Wisconsin communities and 47 of Wisconsin's 72 Counties. The portfolio is comprised of 4,897 apartment units, of which 3,016 are set aside for senior/disabled residents and 1,881 for families. The total resident population exceeds 9,000 persons and the average household annual income is less than \$10,000.

The general geographic locations of the WHPC apartment units within Wisconsin are as follows:

South Central: 1,414
Southeast: 924
East Central: 695
Central: 576
West Central: 542
Northern: 460
Milwaukee County: 286

A. Profile of WHPC's senior/disabled housing units

WHPC owns 3,016 subsidized senior/disabled housing units. Approximately eighty percent (80%) of the residents are 55 and older and thirty-three percent (33%) of the residents are over the age of 80. The average age equals or exceeds 80 at many locations. Ninety percent (90%) of this population is female and lives alone. Average annual income is approximately \$10,000 which puts these residents at or below the current Wisconsin poverty line for one-person households.

Like most senior groups, WHPC's senior housing residents include a high percentage of "frail seniors" with one or more physical or mental disabilities – hearing, sight, mobility, or cognitive/language impairments. Twenty percent (20%) of WHPC's senior/disabled housing residents are disabled adults who have rented a WHPC apartment because it is their best possibility for secure, well-kept affordable housing.

The following three factors emphasize the important role WHPC plays in providing affordable, clean safe housing for its senior and disabled residents:

- There are insufficient state resources to create and/or maintain non-licensed “supportive housing”. For example, Wisconsin licensed nursing home beds have declined fifteen percent (15%) since 2000, even as the above-80 senior population has increased, and will continue to do so.
- The severe poverty of WHPC residents limits their options and access to care and housing.
- The isolation suffered by the residents because few, if any, have family members in a position to help them should they need greater care to maintain independence.

B. Profile of WHPC’s family housing units

WHPC owns 1,881 subsidized family housing units, located in projects throughout the State.

These households average three persons each, with the most common household profile being a single mother with two children. Approximately eighty-five (85%) of WHPC’s family households are headed by a female with the age range of 25-45. Projects with significant immigrant populations have a higher percentage of male dominated households.

WHPC’s family household’s average income is \$9,500 annually which puts the household well under the poverty line. The family households exhibit disability rates of twenty percent (20%) affecting either the head of the household or a dependent.

**TESTIMONY
BEFORE
THE SENATE COMMITTEE ON
JUDICIARY, CORRECTIONS AND HOUSING**

January 22, 2008

**By
Wisconsin Community Action Program Association
(WISCAP)
Bob Jones,
Public Policy Director**

**In Support of
Senate Bill 403**

Good afternoon. I am Bob Jones, the Public Policy Director for the Wisconsin Community Action Program Association.

WISCAP is the statewide trade association for Wisconsin's sixteen Community Action Agencies, and three single-purpose agencies: the Coalition of Wisconsin Aging Groups, the Foundation for Rural Housing and United Migrant Opportunities Services (UMOS). Community Action Agencies are private, not-for-profit organizations which provide services to help low-income families become self-sufficient. Among the many critical services they are engaged in to meet their mission is assistance in the provision of affordable housing.

I am testifying on behalf of our member organizations to urge the Committee's support for SB 403.

WISCAP's statewide network is committed to addressing the growing need for safe and affordable housing in Wisconsin. Our member agencies, in 2006, created or improved 227 housing units; own and operate just under 700 units of affordable housing and manage over 1,150 units. Our member agencies assisted 190 households in becoming first-time homebuyers last year; they also counseled over 275 households in the prevention of mortgage defaults. CAAs actively participate in local 'continuum of care' programs designed to serve homeless populations and help them towards permanent housing; member agencies in various parts of the state operate transitional housing facilities; assist families with critical support services, and provide services to local shelters. And, through weatherization and other housing rehabilitation services, CAAs contributed to the increased local property values in the average community of over \$360,000.

The issue of 'rent use' has bedeviled our desire to provide affordable housing for years. Since Act 195 was created in April 2004, restoring the over-arching property tax exemption for low-income housing, the language restricting use of rental income for very limited purposes has created a growing burden on the financial viability of low-income housing projects.

As one example, property tax exemption status has been denied to Couleecap, a local non-profit providing rental housing to very low income families. Couleecap developed eight units of very low income housing in 1998.

Most of the tenants in this property are at 30% or below the county median income. Initially, they were denied property tax exemption because the low income families in the units would not qualify as tax exempt entities. Act 195 fixed this problem. But, now, Couleecap's low-income housing project has been denied tax exemption through a severe limitation on the definition of how earned income can be used for maintenance of the project. Couleecap has used every penny of income on this project to support the project and its operation. Every unit is rented to very-low-income families. The project cannot afford to pay property taxes, yet is required to pay them. Because Couleecap includes in its accounting of actual expenses such items as insurance; utilities (water, sewer, electric, heat); and property management costs such as wage and fringe of staff who rent up the units, resolve tenant issues, and inspect units, the claim is made that the low-income rental housing is subject to property taxes. Every one of these legitimate expense items would be appropriate expenses under SB 403. Couleecap has been fighting this issue for ten years. They are currently planning to sell the affected units of affordable housing due to this restrictive interpretation of maintenance costs unless this issue is quickly resolved. The agency simply does not have the resources to continue to subsidize these units; since 1998, they have lost and have had to use \$106,726 in corporate funds to subsidize the project. The units can break even if the agency does not have to pay property taxes.

The need for a more flexible approach to the use of rental income has never been a particularly contentious one, in and of itself. When this issue was discussed by the Special Legislative Council on Residential Property Tax Exemptions in 2004-05, there was almost unanimous agreement that, for low-income properties, the uses of rental income needed to be broadened. SB 403 does this.

Many of our member agencies' developments, as well as other non-profit developments across the state, are made possible on the thinnest of financial margins. Over the years, with shrinking federal and other resources to support these projects, the existing restrictions on use of rental income are forcing them to become financially untenable. As an example here, every project United Migrant Opportunities Services has funded through Section 35.60 provides a supportive service plan for the residents. This creates costs for staffing, day care, emergency food, clothing and transportation, and job counseling. UMOS has 4 such centers in Wisconsin and each one needs to spend its rental income more flexibly to meet this important obligation and keep its projects running.

Evenutally, with no change, the only option available for many of these projects would be to sell the property and get out of the business or, in some cases, even foreclose. In some of these situations, the property could end up the responsibility of the local city or municipality and, in an irony, be back off the tax

rolls but with the added financial burden of the locality for maintaining the property. These options do nothing to help create or provide affordable housing.

SB 403 is not a perfect bill. The distinction between 'units' of low-income and 'properties' and the requirement to pay property taxes on low-income units in mixed-use properties, as a condition of allowing the more flexible rent-use, is needlessly burdensome and could have the effect of discouraging mixed-use housing, which is not the direction we should want to go with our affordable housing policy in Wisconsin. Nevertheless, non-profits will still have the option under SB 403 of claiming a deduction on their entire property if they choose to forego the more flexible rent use opportunities (in other words, maintain the status quo), so we feel this is something our members can live with at this time. We realize the art of legislating entails compromise.

We urge passage of SB 403 and its quick implementation. We appreciate the efforts of the bill's sponsors to move this issue along. Thank you for the opportunity to provide these comments, and I'd be happy to answer any questions.